



JUDICIAL DICTATORSHIP AS AN INSTRUMENT OF RENOVATED MONROE DOCTRINE

**Dictadura judicial como instrumento
de Doctrina Monroe renovada**

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Resumen || El autor analiza cómo Estados Unidos usa el fenómeno de la dictadura judicial para realizar una ola de cambio de gobierno en América Latina. Primero, se explica el significado de la dictadura judicial. Luego, el autor analiza cómo los jueces en países individuales de América Latina usurparon su posición e interfirieron directamente en los procesos políticos. Con sus métodos unilaterales e instrumentalizados para combatir la presunta corrupción, los jueces ayudaron a sacar del poder a los líderes de la marea rosa y facilitaron el traslado a sus lugares de practicantes leales a los Estados Unidos. Se hace especial hincapié en Brasil, Argentina y Ecuador.

Palabras Claves || América Latina - dictadura judicial – jueces - Estados Unidos - Lula da Silva.

Abstract || The author analyzes how the United States uses the phenomenon of judicial dictatorship to perform a wave of change of government in Latin America. First, the meaning of the judicial dictatorship is explained. Author then analyzes how judges in individual countries in Latin America usurped their position and directly interfered in political processes. With their unilateral and instrumentalized methods of combating the alleged corruption, judges helped remove the leaders of the pink tide from power and facilitate bringing to their places practitioners loyal to the United States. Special focus is on Brazil, Argentina and Ecuador.

Keywords || Latin America - judicial dictatorship – judges – USA - Lula da Silva.

1. Introduction

In recent years, my research attention has been particularly preoccupied with the phenomenon of the use, abuse or instrumentalisation, of the judicial, constitutional, as well as of international courts and tribunal's power, and in a wider sense of the complete judiciary, for political and geopolitical purposes. It is a phenomenon that Otto Kirchheimer, a student of Carl Schmitt and a member of the Frankfurt School, called *political justice*, or the political use of justice. In that series earlier, I first published a study on the use of the Hague Tribunal to influence current political developments in the respective ex-Yugoslav countries, and then a study on Robert Bork and the phenomenon of judicial dictatorship¹. For this research, I chose to present a concrete instrumentalization of the judicial dictatorship for the purpose of undermining sovereignty and initiating the downfall of democratic regimes in Latin America, conducted by the United States in an effort to restore actions along the principles of Monroe doctrine. This research may also be important for Serbia's needs. After 2000, foreign forces and international organizations that they control have been deeply involved in our judicial system, in the form of consultations, help, through

advisers and other actors, playing a very detrimental role in special prosecutor offices, in commercial courts, appellate courts and other judicial institutions. The domestic judiciary is therefore extremely inefficient, and Serbia is terribly far from the necessary norms of an effective legal state, which also affects the business environment, the general uncertainty of life and property of citizens, and spurs the massive outflow of the population from the country.

After showing the detrimental role of especially the supreme and constitutional courts in the United States and other American countries, we will try to explain why the necessary processes of resuscitation and resouvereignisation in a number of countries from Europe to Latin America today must begin from the stopping and breaking of the alienated, antidemocratic and anti-sovereign power of constitutional, supreme and other important courts.

At the end of August 2015, the American Netflix channel broadcasted the first series of ten episodes of the new television series *Narcos*. A brilliantly produced series with a great team of actors, reconstructed in detail the period of the eighties, when the rise of

¹ See Ђурковић, (2018, a), Djurkovic, (2018b).



Pablo Escobar began. But in an ideological and value sense, the series has developed in a subtle and artistically convincing way a well-known mainstream narrative of corrupt local politicians and non-existent judiciary, of wild, untamed Narco-Traffickers (*narco traficantes*) of Colombia, of greed, murders, fights, a huge amount of cocaine that flows into the United States and destroys the health of the whole population, etc.² The only positive characters that the viewer sees are Steve Marphy and Javier Peña, agents of the American DEA who are fighting against the whole of this system, and some rare Colombians, like President César Augusto Gaviria, who squeezes a loop and finds the courage to mostly let the Americans do the job, e.g. to fight the entire system by protecting not only the interests of America, but at the same time the rights of the local people.

Anyone who knows how close relations always existed between the institutions of popular culture and US foreign policy, and the security sector, realized that this series is by no means coincident with the great return of *gringos* into the space which they perceive from President Monroe as their backyard,

² Rare example of this perspective on *Narcos* can be found in Rocha, (2018).

³ In 2009, Ted Tomas filmed documentary *Walt & El Grupo* in which he explained this entire venture, interesting for understanding public diplomacy and US pop-politics.

and which according to general estimations, over the past decade, due to their activities in the Middle East, with the completion of the Arab Spring they have neglected. Thus, the appearance of this series in which much of the communication takes place in Spanish, with very popular local actors (Brazilian Vagner Moura for example) and with the DEA agent who is of a Latinian origin (Pedro Pascal) in no way accidentally coincides with the year in which demonstrations and impeachments were launched for change of non-cooperative authorities in a number of Latin American countries.

Immediately there occurs the parallel with the famous excursion, which Walt Disney with 16 of his artists made in the spring of 1941, throughout Latin America. On the eve of the US entry into the war, President Roosevelt wanted to begin to suppress the German influence on these areas, and for this purpose, he organized the tour of the Disney Studios in Brazil, Chile, Argentina and Peru. The tour was a great success in every aspect, including improving the image of the United States in these three countries. As a result of this tour, famous cartoons *Saludos amigos* and *Tres Caballeros*³,

Interestingly, the entire project was pushed by Nelson Rockefeller, who was then in charge of inter-American relations, that is, the US relations with other countries of the continent.

with Joze Carioca and Panchito, were made.

During the first fifteen years of our century, in time of the two Bush mandates and the first Obama's, the area of Latin America has largely come out of the control of its great northern neighbor. In a large number of important countries, the power has come into the hands of politicians to great extent hostile to the policies of the United States and the country itself. From Venezuela, through Brazil, Ecuador, Bolivia, to Argentina, power was taken over by political forces and leaders who were counted under the popular title *pink tide*.

The reader should understand a specific line of ideological and political divisions in the Latin American countries. During the seventies and eighties, USA exported a model that most often combined military dictatorship, or some form of authoritarianism, with so-called neo-liberalism and pro-market economic order. The military dictatorships introduced after the coups in Brazil (1964), Chile (1973) or Argentina (1976), which the Americans supported, left very serious wounds on

the societies of these countries⁴. As Stanley Rut observed, all the states in this area, apart from Costa Rica, had at least one experience of dictatorship supported by the United States⁵. Against it there were very broad coalitions dominated by the forces of the anti-globalist left, devoted to building solidarity, the welfare state and advocates of the independence of these countries in relation to the United States. During the dictatorship period, trade union organizations also played a major role in the opposition, as well as parts of the Roman Catholic Church who resisted both the dictatorships and the radical market policy of the IMF⁶.

After the opening and democratization of the 1990s, the generation of leaders who, during the dictatorship, belonged to the opposition and workers' circles broke into the forefront. After 2000, they assumed power and began to build their model, which is generally baptized as left populism, democratic socialism, anti-Americanism, etc. Hugo Chavez came to power in 1999, Lula da Silva in 2003, together with Nestor Kirchner, Evo Morales in 2006, Rafael Correa in 2007, and Mujica in 2010. They all came

⁴ See Greg Grandin's book, *The Last Colonial Massacre: Latin America in the Cold War*. Grandin, (2011). In 1975, the notorious Kondor operation was launched, which included the incitement to terror, torture, the establishing of concentration camps, massacres, kidnapping and other frightening methods of intimidation and the elimination of US political opponents and the opponents of market economy in LA. About this operation, see McSherry, (2005).

⁵ Ruth, (2016).

⁶ However, similar to the interwar period in Europe, there were different tendencies. There were also parts of the church in some countries that worked closely with dictators and supported them in the name of the struggle with communism. See De Souza, (2007).

up with an economic and social model that affirmed protectionism, higher budget allocations for health, education, social security and in this way went directly against the recommendations of international financial institutions. They started with higher taxation of multinational corporations, infrastructure projects, and the fight against poverty. As a rule, they have achieved great popularity above all with the broad masses of the population who felt the serious benefits of this change in relation to the time of the rule of IMF recommendations.

These leaders also helped each other to make in Mercosur and with less success in the Organization of American States a serious lobby to curb the interests of the United States, to protect each other from their predation and suppress the influence of US protegeses such as Mexico or Colombia. In addition, there has been a growing opening up to China's investments and attempts to cooperate with Russia. At the time of Silva, Brazil was one of the fastest growing economies in the world that pretended to become an important regional power. Participation in the organization BRICS, as well as the

achievement of the Iranian Nuclear Agreement in 2010, presented Brazil as a potentially serious global player. All of this triggered red lights in Washington and prompted a new offensive for the return of the US impact and for the return of this space to the US sphere of influence.

However, this time, it will turn out, unlike in previous years marked by military dictatorships, the citizens and politicians of these countries will face a completely new, until then unknown phenomenon, the judicial dictatorship (dictadura de los jueces, dictadura judicial). The process of suppressing domestic non-cooperative leaders and parties was implemented with the decisive role and assistance of judicial authorities, especially judges of the Supreme and Constitutional Courts. Thus, the area of Latin America has subsumed under what Robert Bork calls the American disease: judicial abuse of the position that usurps the legislative powers and carries out ideologically driven politics. Some authors claim that the modern sophisticated judicial dictatorship in Latin America replaced the former brutal military dictatorship⁷.

⁷ Croceri, (2018). Christina Kirchner, the former president of Argentina, claims the same. In August 2018, she said in parliament that the current dictatorship should be compared with the former one, when opponents were eliminated simply by killing, while now they are being eliminated by instrumentalization of judicial power. <https://www.hispantv.com/noticias/argentina/386175/fe>

rnandez-proceso-judicial-missadura-macri. At a hearing before Judge Bonadio, she pointed out that there is a regional model for the removal of all leaders, forces and movements fighting for the expansion of rights and the tackling of poverty for millions of people. <https://www.hispantv.com/noticias/argentina/385286/cristina-kirchner-bonadio-corrupcion-coimas>

In the text below, we will first briefly explain the phenomenon of judicial dictatorship, and then show that the judicial dictatorship was instrumentalized as a weapon used by the US and their local partners from the countries concerned to undermine sovereignty, democracy and in the total sum the national interests of those countries. At the end of the text, we will point out how some European countries that are trying to make a sovereign decisions on their fate, are being forced first to limit the scope of their allegedly independent constitutional courts. In a similar position is the new Mexican President, Andres Manuel Lopes Obrador, who begins to clash with activist judges in his country.

2. I recently published an extensive study on the problem of judicial dictatorship called Robert Bork and the issue of judicial dictatorship in the Serbian journal *Annals of the Law Faculty in Belgrade*⁸. Here in a very condensed form, I will only present the phenomenon of judicial dictatorship in order to understand how this mechanism works in the area of Latin America.

During the adoption of the US Constitution, there was a huge controversy between Hamilton,

Medison and Jay, on the one hand, whose writings would be published under the title commonly known as *Federalist* or *Federalist writings*, and on the other hand still not precisely defined author signed by the pseudonym Brut, and whose 16 essays were published with the works of other authors under the common name *Antifederalist*. In this polemic, Hamilton coined the famous formulation of *the least dangerous branch*, believing that the judiciary and, in particular, the Supreme Court would play the role of a conservative contralor of the reforms, by defending stability and by preventing too much rapid evolution in society. However, from today's perspective, it is clear that Brutus had a much better prophetic power. In his *Antifederalist* number 12, he stated that due to the great power provided by the Constitution, the court would expand its legislative power, increase the general jurisdiction of the courts, and ultimately reduce and destroy the legislative and judicial functions of the state⁹. Brut pointed to the potential problem of the provision that gives the court the right to interpret the Constitution in accordance with the spirit and the resonance, and not only according to the written law. He also saw the danger in the fact that courts were given the right

⁸ Бурковић, (2018a).

⁹ See <https://www.constitution.org/afp/brutus12.htm>. The collection of antifederalist writings can be found as *The*

Antifederalist Papers, at <http://www.firearmsandliberty.com/antifederalist/theantifederalistpapers.pdf>



to decide on the validity of the legislative measures adopted by the Congress: he proposed to place greater control over the actions of judges and that crime should not be the only basis for their dismissal.

Indeed, the Court really used the power of review in only one cases before the Civil War, but in the second half of the century, this practice increased. The courts played a particularly important role during the years of depression and Roosevelt's New Deal. At that, time started major controversies about the relationship between the judiciary and the executive. The real revolution, however, begins with the Brown's case of 1955, when the court terminated segregation by its judgment. After 1962, a clear liberal majority was formed in the Supreme Court and since then a series of judgments has been launched which radically changed the system of values and the whole system of inherited institutions over the next half century.

In 1995, William Quirk and Randal Bridwell published a book titled *Judicial Dictatorship*. But the thinker and the law theorist who best promoted this theoretical notion and demystified the violent unconstitutional behavior of liberal judges in America, Israel and other parts of the World, was Robert Bork, the man whose nomination for the seat in the US Supreme Court was dropped in 1988 after a brutal public

defamation campaign and the humiliation that was prepared for him. He subsequently analyzed in detail the mechanisms of judicial dictatorship in the series of books and proceedings he edited with his associates, as well as the dangers it posed for American democracy, constitutionality, morals and value systems.

The judges of the Supreme Court in the US over the past half-century have taken up and usurped a number of legislative and executive powers, which, according to the original interpretation of the constitution, do not belong to them at all. However, with the help of large-scale capital, media, university lobbies where members of neotrotskyism, that is, the radical left, were dominated, they managed to master the entire public space and to present their judicial activism and usurpation as an alleged struggle for justice, human rights and other worthwhile and popular concepts. The Supreme Court made a series of extremely controversial decisions, most directly contrary to the US Constitution, which expelled religion from schools and the public sphere, imposed abortion on the entire territory of the United States, imposed homosexual marriages and thereby violently changed the understanding of marriage in this country, etc. For a long time already this court has served for violent, anti-democratic warfare against tradition, constitution, will of the majority and

inherited concepts, categories and values with which the ordinary US citizen has defined his identity and the identity of his community.

However, after 2000 this practice has been expanding to other countries. It was noticed that until the Second World War, only the courts of the United States and Norway had the right to reconsider, review and reverse the laws that the parliaments pass. Today this has become a practice in dozens of countries, and their number is constantly increasing. In addition to the US courts, the courts of Israel, Canada, the European Court of Human Rights, the European Court of Justice, ad hoc international courts, etc. are known for their infamous activist practices. Bork pointed out that such judges are helping each other and that judges in certain countries begin to quote the precedents and decisions of judges not only from non-binding judgments of international tribunals, but also from courts of other states with an obviously different legal tradition and practice. Thus, this American disease, like viruses, spreads across the globe, primarily endangering elementary democratic freedoms and the right of people to decide on their own destiny.

Here, we will show that the United States in the last five to ten years has spurred the spread of judicial dictatorship into Latin America as part of the strategy of restoring Monroe's

doctrine that is, re-putting this space under its full control and preventing the entry of other major powers such as China and Russia.

3. The United States, somewhere at the time of the commencement of events in Ukraine, in 2013 and 2014, actually began to treat relations with Russia and, in part, China as a new cold war. Not only in Europe, a strong propaganda campaign has begun to classify and hunt down all potential allies in a unique anti-Russian front, accompanied by a new highly intriguing propaganda discourse on alleged hybrid and cyber wars that Russia is launching in order to interfere in the internal relations of individual countries, European Union and to expand its sphere of influence.

Part of this strategy has become intense action towards the area of Latin America. The period from 2000 to 2014 was observed as the era of the *pink tide* leaders, who, in economic, social, and geopolitical terms, quite radically exited the US sphere of influence. Great nervousness was shown by the actors of large companies and banks, whose influence during this period was quite shaky in the mentioned area, and the experience of Guatemala and Chile, for example, shows that large companies can instrumentalize and launch US diplomacy and security sector, and in order to protect their interests, organize even *coups d'états*. The reign of

Lula Da Silva, Nestor and Christina Kirchner, Rafael Correa, Evo Morales and Hugo Chavez is marked by significant economic growth in a large number of these countries, by increasing allocations for health, education and poverty alleviation, as well as by the return of sovereignty and democracy in the original sense. For example, Chavez printed millions of copies of the constitution and distributed to the citizens of Venezuela to get acquainted with what rights they have, and the new president of Mexico, Lopez Obrador, whom the citizens symbolically supported with yelling "You Are Not Alone!" at the inauguration, insists on frequent regular conferences for the public to get people acquainted with all the moves that he pursued to realize what he had promised. These leaders renewed the autochthonous mixture of politics that inherited the tradition of theology and the philosophy of liberation and slowly launched a wave of emancipation from the northern neighbor. In Washington and the Pentagon, observers have spotted that this space is neglected and

left out of focus, with very dangerous tendencies, and in the light of the projections of new global conflicts with Russia and China, an entire package has been launched in an attempt to regain control of this area.

Special mention should be made of appointment of Mark Feierstein in May 2015 as a key man in the administration for Latin America. Prior to that, since 2010 he was Assistant Administrator for USAID for Latin America and the Caribbean, and according to Shon Nevins, he played important role in the coup in Paraguay in 2012¹⁰. After 2015, however, he started a wave of such operations.

In addition to this, the standard propaganda package was launched, speaking on "the malignant influence of Russia" in the value, economic, political and security aspects¹¹. Similarly, to Europe, Russia was accused for cooperation with "populist leaders", which allegedly violate democracy and allegedly present carriers of corruption and actors of threatening the rule of law to which, as we know from recent history, Americans allegedly seem to

¹⁰ Nevins, (2015), <https://shadowproof.com/2015/05/13/coups-massacres-and-contras-the-legacy-of-washingtons-new-point-man-in-latin-america/>. It is a man who was engaged in the suppression of left-wing governments in this area in the 1980's, which included massacres, aiding military junta, military coups, and so on. His interesting biography indicates person for special tasks that is constantly moving between administrations, journalism, ngo/s with

apparently a lot of intelligence work. See at the *Center for Strategic and International Studies* portal.

¹¹ See, for example, the study of Julia Gurganus in May 2018, done under the auspices of the Carnegie Endowment for International Peace, about the Russian geopolitical game in Latin America, where she in detail for each country analyzes Russian influence in the economic, political, information and military field. See Gurganus, (2018), <https://carnegieendowment.org/2018/05/03/russia-playing-geopolitical-game-in-latin-america-pub-76228>

care a lot. This emphasis on the need to curb corruption and to strengthen the rule of law will become the basis for the spread of the phenomenon of judicial dictatorship in the Latin American area. Since the phenomenon is relatively new and in fact, only in 2018 it began to be clearly perceived as a clear tendency, that is, the strategy of the United States, large companies and the cooperative local elite, there are no corresponding academic works. This is probably one of the first attempts to capture, record, describe and locate this tendency in the global context of growing conflict of democracies with the predatory behavior of allegedly independent courts¹².

Judicial dictatorship, in a broader sense which includes prosecutors, can also be seen as another very important segment in the theory and practice of state upheavals and overthrows that has progressed greatly over the past twenty years thanks to the actions of Otpor, Canvas, the wave of colored revolutions, the Arab Spring, Macedonian events and interesting unsuccessful attempts to overthrow regimes in Iran or Hong Kong¹³. For this purpose, the term *lawfare* was launched, as a coin of the terms Law and

Warfare. This term refers to all forms of use, that is, the abuse of rights, prosecution, judiciary and international courts in order to achieve political, internal political and geopolitical goals. Romero gives a very nice definition of this phenomenon, coined by experts in Cleveland at the 2010 conference: "... a war of the judges that takes place through the illegitimate use of domestic or international law with the intention of destroying an opponent, achieving such a victory in the battlefield of public policy paralyzing the politics and finances of the opponents, or by preventing them through judiciary to achieve their goals or to submit their candidacies for public positions."¹⁴

Already Otto Kirchheimer wrote about political justice, and recently, on the case of the ICTY, I have shown that this court from 1993 to 2017 was used form the Westerners for achieving the current political goals in the Balkan countries.¹⁵ The role played by the so-called Special Prosecution for Corruption in the long lasting hybrid process of the downfall of Nikola Gruevski's authorities in Macedonia should be especially emphasized in our region. This prosecution office and prosecutor, Katica Janeva, were

¹² The author is, of course, aware of the methodological insufficiencies of this early approach, but I think that there is enough material on the basis of which, with my previous dealings with the phenomenon of judicial dictatorship, this work can be established as a valid hypothesis, a heuristic circumscribing of research space, with the expectation that

the subsequent works of colleagues from that area verify or maybe refute my thesis.

¹³ About new interpretation of regime overthrows, see Парезановић (2013).

¹⁴ Romero, (2018).

¹⁵ Djurkovic, (2018,b).

imposed by the foreign and above all the US embassy in order to issue indictments, threaten, remove ministers, send them to jail, apply double standings, and ultimately to support the change of power. The new illegal government immediately began the key geopolitical processes initiated by the Americans, such as the federalization of Macedonia and the signing of the Prespa Treaty, which should open the way for Macedonia's entry into NATO, which was the most important objective of the recent USA activity in the country. In Brazil, as we will see, a hybrid process that included yellow ducks on the streets, media propaganda, and parliamentary impeachment of the President, was performed along with the big role of powerful judge Sergio Moro.

Let's try to show how this process in practice took place in Latin America. First, it should be noted that the process of transforming Latin America's legal systems under the influence of the United States has been going on for a long time. These systems are mostly built according to the European continental model, with written constitutions, laws and a relatively limited role of the judiciary, that is, judges as someone who applies the law. However, because of the action of the American foundations, which, due to the education or training of a large number of lawyers from these countries in

leading law schools in the United States, such as Yale, Princeton or Harvard, over the past two decades has begun to expand the culture of precedent law. Judges, like in other countries around the World where Americans and the English have reformed legal systems, began to accumulate growing powers, to increasingly interfere in the legislative process, violate laws and enter their judgments not only in the process but also in the content matter, along the lines of the practice of their colleagues and professors from the United States. Somehow, during the past decade, these attempts have always coincided with the interests of the United States.

Even before the wave we are talking about, precedent was posed with the downfall of Manuel Zelaya in Honduras. Zelaya was elected president in 2006, approached Chavez and initiated a whole wave of social and legal reforms such as the introduction of free education for all children, interest rate cuts, an 80% minimum wage increase, provision of free meals in school for 1.5 million children, poverty reduction by 10%, etc. He also tried to include Honduras in the ALBA association of Latin American countries. In order to obtain greater authority in internal politics, Zelaya tried to change the constitution and tried to hold a referendum for that purpose. The Supreme Court first banned that

referendum, and then ordered Zelaya to be arrested. At the end of June 2009, the court issued an order that the legitimate, elected president be arrested and later expelled from the country!

Although President Obama nominally condemned the coup, later revealed e-mails of Hilary Clinton showed, as Zelaya himself claimed, that the USA administration was very interested in changing the power, which has happened afterwards. Zelaya is expelled into Costa Rica.

The next important case is Fernando Lugo in Paraguay. This former Roman Catholic priest and bishop, representative of theology of liberation, won the 2008 presidential election. In line with his intellectual beliefs, he launched a series of measures with which he wanted to help raise standards of poor members of society. There were the construction of cheap apartments, free treatment for the poor and increasing social assistance. Four years later, the parliament initiated the impeachment procedure in June against him. After the vote, the Supreme Court of Paraguay automatically confirmed the alleged legality of the proceedings and Lugo was removed from power. Everything went very quickly after a

controversial and dubious incident in May over the ownership of the land at Campos Morombi, when 6 police officers and 11 farmers were killed. Lugo launched an investigation into this suspicious massacre, but was quickly removed.

WikiLeaks telegrams, however, found that as early as March 2009, the US Embassy in Paraguay was aware of the entire operation scenario initiated by senior officials of the oppositional party. There is a detailed explanation of the idea of finding some cause after which an impeachment will be organized in parliament, regardless of whether it was legally founded, and that they would then regain power¹⁶. This parliamentary strike, supported by the Supreme and Special Election Court, a large number of states in Latin America proclaimed to be a coup, pointing to similarities with the fall of Zelaya¹⁷.

Nevin is citing the research work of Natalia Viana, who noted that USAID has radically boosted its work in Paraguay after the election of the Lugo, especially with those sectors of public administration that will play a major role in the impeachment¹⁸. The aim was to prevent its political strengthening that would take Paraguay into an ever-

¹⁶ See a telegram from March 28, where it is clearly said that a parliamentary coup is being prepared. https://wikileaks.org/plusd/cables/09ASUNCION189_a.html

¹⁷ Ezquerro-Cañete, Fogel, (2016)

¹⁸ <https://www.thenation.com/article/usaid-dubious-allies-paraguay/>

increasing number of states that are determined to oppose the USA.

At the beginning of his review article, Romero gives an overview of five to six key court decisions that have changed the political geography of Latin America from September 2016 to July 2018¹⁹. Except Colombia and Ecuador, that what has happened in Brazil and Argentina is also mentioned.

Of course, the two most important cases of lawfare are related to these two key countries in South America, Brazil and Argentina. Brazil spent the period from 1964 to 1985 under a regime of military dictatorship, which the Americans had strongly supported. After the so-called *golden era* of high economic growth (until 1973), with the onset of the global energy crisis, Brazil began to face the problems of entering the vicious circle of recession and hyperinflation at the end of that decade. Fifteen years after the fall of the military dictatorship, the Labor Party came to power, and since 2003, the presidential mandate has been taken over by longtime trade union leader and politician Lula da Silva. During the two mandates in the period 2003 -2011, Lula da Silva implemented a series of programs that radically eradicated poverty, but at the same time, it created a system that attracted major foreign investment and enabled great economic progress. Largely, this

continued during Lula's successor, Dilma Rousseff. Brazil through BRICS, participation in the Iranian nuclear agreement, the organization of the World Cup in football 2014 and the 2016 Olympic Games, has significantly boosted international reputation and prestige. Brazil was among the ten largest economies in the world and slowly became an important regional leader, whose economic and political model with all its flaws as such a large country began to attract people from all over Latin America.

During 2011, Lula was diagnosed with throat cancer, so he supported Dilma Rousseff in presidential elections. Dilma was his chief of staff, and in that way a kind of guarantor of continuity. She received a second mandate without major problems in 2015, but immediately after the election, a mechanism was launched that will eventually bring to her impeachment on August 31, 2016, a year and a half later. A number of political leaders and analysts stressed that this process of the downfall of Dilma Rousseff, the launch of the fight against corruption in the case of Lava Jato (money laundry) and the prevention of Lula Da Silva to take office in the administration and to become the president again, was

¹⁹ Romero, (2018).

designed and directed in the USA²⁰. It was a complex operation²¹ in which we also saw yellow duck symbols, which will later appear as a symbol in Moscow and Belgrade protests. As a rule, this phenomenon was always linked to Soros's infrastructure. However, the courts played a particularly important role throughout the process.

As noted by Eliane Brum, justice in Brazil got its face with Judge Sergio Moro. Protestants who demanded resignation of Dilma Rousseff wore t-shirts with his character on which was written: "In Moro we trust!" Moro was in 2014 one of the main judges who initiated the Lava Jato process and received enormous support from the media he used to propagate his highly controversial measures. Among other things, he initiated the release of a recorded conversation between Dilma Rousseff and Lula da Silva as the candidate for the office of the chief of the cabinet (position of prime minister). It was the sequence in which she explains that it is important that for any case it provide him administrative protection and immunity. Moro has justified this controversial measure by the public's interest in finding out such important things²². Interestingly, Da Silva was not even indicted for

participating in the corruption scandal at all at the time

When Da Silva was appointed to that position, Judge of the Supreme Court, Gilmar Mendes, initiated the same day abolishing of the decision and remove Lula from the office. The judges also played a key role during 2018 when their decision prevented Da Silva's bid for the third term, although at that time, he was the most popular candidate with over 40% support. Lula was in the process of appeal to a prison sentence determined by the 2017 judgment, so the court's decision actually precluded him from winning his election and instead sent him to serve a twelve-year prison sentence.

It should be noted here that on March 23, 2018 Netflix again played a significant role in the accompanying propaganda-psychological warfare. At that time, eight episodes of the *Mechanism* series were broadcasted (the author is the same Jose Padilla, who also worked on *Narcos*), filmed in a Portuguese language. This TV show deals with the Lava Jato case in detail and indicates that Da Silva and his associates are involved in huge corruption and schemes with a large energy companies.

It should be noted here that in January 2019, *Anonymous* announced the sixth

²⁰ Cristina Kirchner claimed that the libretto of operetta was written in Washington.

²¹ See an interview with Jose Luis Fiori. De Lucena, (2019).

²² Moro's methods are extremely controversial, unilateral, and obviously politically motivated. There are a number of very controversial cases on which he worked.

tranche of hacked e-mails of British operatives gathered around the Integrity Initiative, which discussed the strategy of spreading the impact on the Western Balkans. The key role of the strategy should be the alleged fight against corruption, and in the framework of the performance, a search for a television soap opera is also being sought, the subject of which will be political corruption. The British intelligence-political structures are obviously preparing the application of the Latin American method that we now describe, into the so-called Western Balkans.²³

Thus, during the 2014-2018. period, the Brazilian judiciary played a key role in overthrowing the Labor Party and its leaders, which included a formal ban on politics and finally condemning Lula Da Silva as party leader to long-time imprisonment. At the same time, the corruption that was apparent in cases of financing opposition PSDB was completely ignored. Moro was, in the meantime, seen in a cordial relationship with their leaders. After the victory of Bolsonaro, which he actually facilitated, this judge, from November 1, 2018, became the Minister of Justice!

It is a direct, proven conflict of interest, but for this global media has stayed silent. Here is the essence of the

problem. Over the past hundred years, we have witnessed increasing mercantilisation of politics, where money plays a far more important role than ideas, and is the basis for the development of organizations, lobbying, propaganda and all parts of the political. Funding of political parties is therefore unfortunately all over the world connected with various forms of corruption and gray zone. Not to speak of the Latin American area in which it is, similarly to the considerable parts of Latin Europe, a part of the customs and culture of business. A one-sided application of conviction measures, for which obviously enough material can always be found, is equal to the political instrumentalisation of the judiciary, that is, it becomes a form of judicial dictatorship. In this case, the Brazilian judiciary performed unilateral persecution, initiated direct interference in the electoral process, and took over the powers of the executive and the electorate. Romero rightfully noticed that we witnessed a paradox that the branch of government that is the most responsible for the global status of Latin America as a champion of corruption suddenly enters allegedly crusading wars of suppression of corruption, but very targeted and one sided²⁴.

²³ <https://www.logicno.com/politika/london-operacija-zapadni-balkan.html> The documents can be found at

<https://www.cyberguerrilla.org/blog/operation-integrity-initiative-british-informational-war-against-all-part-6/>
²⁴ Romero, (2018).

A similar thing happened in Argentina in 2014. With all its occasional economic crises, this country is still one of the ten largest economies in the world and traditionally politically very influential not only on the continent but globally. On a number of occasions, we have seen that Argentina was one of the most ardent and, in legal terms, most passionate representatives of Serbia's interests in the defense of Kosovo and the idea of sovereignty in international forums. The great influence of the population of German origin and the dispute with Britain over the Falkland Islands, facilitated that the people of this country maintains a mood that can be largely described as anti-USA. However, this is the case in a large number of countries in Latin America, starting with Mexico onward, but the United States maintains its great influence acting through the corrupted elite and attaining the most with it. This, however, defines their entire politics as largely anti-democratic: when the political process is left to the sovereign decision-making of the population, that is, when elementary democratic conditions are respected, and the forces that have reserves towards the United States come to power. When USA interferes in political, electoral and other processes, then it finds ways to deform the natural course and direct

political decision-making toward their own interest. Hence, the phenomenon of judicial dictatorship is so important, because through the form and concepts of respecting the law, fighting corruption and defending human rights, it actually deforms the political process and suspends the possibility of democratic decision-making of citizens and thus the protection of national interests.

In 2003, Nestor Kirchner was elected President of Argentina as a candidate of the Peronist Justicialist Party (Social Justice Party). In yet another of the many ideological turnovers which in its history this party made, Kirchner began ruling with a model that is now called by him *kirchnerism*. It is a combination of nationalism and the struggle for resouvereignisation, then socialism and radicalism. Following the 2001 bankruptcy caused by the IMF's recommendations, Kirchner began with the program of leftist sovereign social democracy and the expulsion of international monetary institutions. He was succeeded by his wife Cristina who was directly elected in 2007 and then in 2011. She nationalized private pension funds, fired the liberal president of the Central Bank, nationalized the main energy company YPF, continued the

policy of strong subsidies for the public services sector, etc.²⁵

Not only in internal but also in foreign policy, it clearly joined the *pink tide* and openly opposed the United States, which included several scandals such as the seizure of US devices and medicaments, leading to the diplomatic crisis. She has since 2014 claimed that the USA will try to remove her and linked to it the decision of the US courts to declare a partial bankruptcy of Argentine debt, although the economy itself and the payment of foreign liabilities were in a very solid state at that time.

The problems began in 2012 when Kirchner and her associates released the idea of changing the constitution in order to be the president even after 2015. In addition to street demonstrations, and the involvement of independent journalist as investigators of the corruption allegedly involving Nestor Kirchner (the Road of K-Money Affair), also the prosecution has begun processing the alleged involvement of Kirchner in concealing of the Iranian perpetrators involved in the attack on the Jewish Cultural Center in Buenos

Aires in 1994. Since then followed a series of allegations of alleged corruption cases, involvement of the party's top leadership in suspicious cases, etc. All this, together with the corporatist media with which Kirchner was waging war, led to the prevention of the possibility of changing the constitution and the victory of the oppositional candidate Macri over Daniel Scioli, a candidate of the Peronist party. During 2016, there was a whole wave of judicial attacks on Kirchner and her associates from the party, in order to break the political, financial and media basis of their functioning.

Kirchner emphasized specifically the role of Judge Claudio Bonadio, for whom she claimed in the parliament to be an ordinary puppet in the hands of President Macri. Bonadio first demanded that the Senate abolish her mandate accusing Kirchner of standing behind the dollar-futures affair. Then in December 2017, he filed an indictment against her for high treason, although he knew she was enjoying immunity as a senator. Finally, in March 2018, the federal court charged that it allegedly made an agreement with Iran, in which

²⁵ The famous neo-Marxist philosopher from Argentina Ernesto Laclau supported the policy of Kirchner, claiming that this kind of autonomous democratic populism was a reaction to neoliberalism from the 1990s, seen as a logical continuation of military dictatorship. Contrary to their predecessors, Kirchners have spurred the investigation into the crimes of the junta and the massive violation of human rights during its reign. There was also a controversial case of about 500 children of killed guerrillas,

which the junta gave to their supporter for adoption. In 2005, Laclau defended populism as an essential element of democracy in the book *On Populist Reason*. See Laclau, (2005). About relations with Kirchner and other pink tide leaders, Laclau spoke in his last interview with *La Nación*, which can be found at <https://www.versobooks.com/blogs/1575-ernesto-laclau-s-last-interview-with-la-nacion>.

it promised to conceal Iran's involvement in the 1994 terrorist attack in order to get cheaper oil for the country.

Kirchner pointed out that the use of the judiciary, or judicial dictatorship, has become a regional model for the elimination of the so-called "progressive opposition", that is, the leaders of the pink tide movements. The aim of this wave is the elimination of populist leaders who represent the lower strata of society. The motive of judicial dictatorship substituting the former military dictatorship points to the fact that judges take over the role of political leaders and celebrity stars and directly violate the constitutional principles of the division of power. Judges become masters of political life and death, while all of that simultaneously take place under the alleged firm defense of the rule of law and democracy. In Bodriar's terms, we see a simulacrum of democracy and the rule of law.

In addition to the above-mentioned cases, here we will briefly mention the case of Ecuador and the case of Colombia. In December 2017, the Colombian government passed a decree amending the jurisdiction of the courts. Former Minister Luis Felipe Henao warned in a column on December 21²⁶ that it was a bomb that could initiate

institutional chaos. The decree provided that the lower district courts deal with the work of the Congress, and that almost every judge from his office can influence public policies, judge them, suspend them, change them, etc.

Namely, the opportunity opened up for the courts to be directly involved in the work of the Congress. Contrary to the Constitution, the judges ordered the House of Representatives and the Senate to send certain laws to the president's approval. Analysts have called this "flagrant sweeping of the procedure and constitution", and a "judicial dictatorship", which has been imposed in favor of the executive, in order to preserve control and dominance over a parliament where the government has no majority. In February, similar voices were heard in Guatemala. Aquiles Faillace, former MP, warned that the Amparo Law of 1985, the signatory of which was the vice-president of the assembly, was increasingly beginning to be interpreted, as that institution one day in 1985 would carry out an instrument of the Constitutional Court for the usurpation of functions that no one imagined. He illustrates this by spreading the thesis that the Constitutional Court's decisions "are met and not discussed", and he asked how the Constitutional Court could

²⁶ See Espinosa Fenwarth, (2018).

decide on criminal and fiscal problems.²⁷

Finally, there is the case of Rafael Correa and Ecuador. This doctor of economic, who among other things studied at the famous Catholic university of Leuven in Belgium, became president in 2006 and started the struggle to expel from the country international economic institutions. The national debt was declared illegitimate and he said that the country will refuse to pay \$ 3 billion to foreign creditors - at the time of its inauguration, the government was spending 38% of the budget on repayment of debts. He began the standard policy of the pink tide leaders, which included increased allocations for education, health and social policy, the fight to reduce poverty and reduce social inequalities. Correa had good results in all these fields for ten years of its reign, along with an economic growth of 1.5%. He refused to sign a free trade agreement with the United States. He combined his original left wing economic and social politics with powerful Catholicism - he held the picture of the Pope on his working desk, and showed significant conservatism in social matters; for example, consistently opposed to same-sex marriage.

²⁷ <https://elperiodico.com.gt/opinion/2018/02/10/la-dictadura-de-los-jueces/>

²⁸ <https://www.washingtonpost.com/news/worldviews/wp/>

In 2016, the country faced a number of problems including a catastrophic earthquake and a recession. Many believe that because of such a bad situation, Correa decided not to run for another term, expecting to return to the 2021 elections. He supported Lenin Moreno, but this new president moved to the side of Correas' opponents, together with the judges prepared, and organized a historic referendum on February 4, 2018. Voters voted for the ban on running for more than two terms, preventing Correa from returning to power at any time. Two important environmental policy decisions from Correa's time have also been overturned: the mining in urban and protected areas has been re-enabled, as well as the exploitation of oil in the biodiversity-rich National Park of Yasuni where indigenous Indios live²⁸. The ultimate blow of the judges of the highest court in Ecuador was given in June 2018 when they accused Correa of being involved in the kidnapping of opposition lawyer Fernando Baldo in 2012. On July 3, they issued a warrant for his arrest, so Correa is now a political refugee living in Belgium.

The Correa himself reiterated that the opponents could not defeat his politics through the democratic process, so they

[2018/02/05/a-referendum-in-ecuador-is-another-defeat-for-south-americas-left-wing-populists/?noredirect=on&utm_term=.cae35e472c22](https://www.washingtonpost.com/news/worldviews/wp/2018/02/05/a-referendum-in-ecuador-is-another-defeat-for-south-americas-left-wing-populists/?noredirect=on&utm_term=.cae35e472c22)

used the judiciary. He received great support from other Latin American leaders such as Morales, Maduro, Kirchner, while Lula da Silva sent a letter from prison saying: "I heard that you too became ... a victim of the politicization of judiciary, by which certain judges want to kick us out of politics. They take away from our people the right to decide on their destiny. You have my full solidarity and I am sure that we will enjoy the full triumph of justice, and that our nations will have the opportunity to decide democratically about the fate of their countries and of all Latin America."²⁹

4. It should be noted that, however, now the ruling blocks, which mostly USA have helped in the conquest of power, began to shy away from these ever-growing powers of the judges, since it can turn them back on their heads tomorrow. Recently elected president of Mexico, Lopes Obrador came immediately to the conflict with the justice sector. With the help of the Congress, as a part of the austerity package, he decided that no one in the public administration could have a higher salary than the president, which is about \$ 5300 a month. The most affected by this measure are, according to him, the judges of the Supreme Court

with a salary of about 30,000 dollars. It was precisely the judges of this court that decided to suspend the mentioned salary law, and the association of judges organized street demonstrations against Obrador. Obviously, this is about the beginning of a very harsh conflict between the executive and the judiciary, which, according to the reputation of its USA counterparts, wants to usurp both legislative and executive power. Having the experience of all these cases that we dealt with, Lopes Obrador is preparing to fight judges and prevent something similar to what his colleague's politicians have experienced.³⁰

Here we will leave aside the work of the international courts, and we will finish by pointing to the cases of Hungary and Poland, as models that will probably soon begin to be followed by the sovereigns politicians of Latin America. Viktor Orban and the Kaczynski's Party in Poland who are enrolled in the struggle to restore sovereignty and respect for the democratic will of the people and the national interest, first had to wage war with so-called independent institutions such as central banks and supreme courts of justice (constitutional courts). Their so-called independence is essentially independence from the national

²⁹ <https://www.mintpressnews.com/latin-america-defends-ecuador-ex-president-correas-fight-against-us-backed-persecution/245525/>

³⁰ In February 2019 Obrador's supporters have spread posters claiming: "Si pudimos cambiar casi todo el congreso, ¿apoyo no podemos quitar a 11 parásitos de la suprema corte?".

interest and will of the people. As a rule, these institutions protected the interests of international capital, Brussels bureaucracy, and ideological tasks of contemporary Western hemisphere rulers. Hence, the basic precondition for the survival of the state and the financial and the value system was to overcome the powers and pretensions of the constitutional judiciary. While Brussels and the international corporate media expectedly condemned these moves altogether, the people in these two countries pleaded with their leaders, due to awareness of the malignant influence of such institutions in the previous period, which brought to their delegitimization.³¹

The consequence of such a development is that their elementary function, the preservation of constitutionality and legality in the state is endangered, and that their previous work legitimizes any measure of the executive power against them, even when it is linked to usurpation or corruption. But, as is known from history, it was always necessary to establish statehood and sovereignty, and then only to fight for

³¹ Let us add these European examples to the fact that on March 17, 2018, hundreds of demonstrators in Israel demonstrated outside the house of the President of the Supreme Court of Israel, Eshet Hajut, after the court's decision to suspend the government's decision to deport immigrants. They accused the court of having been obstructing laws and the rule of law for ten years, preventing deportation and allowing infiltration of illegal

the rule of law and other mechanisms for creating a decent and regulated political and legal system

Let's conclude. We have shown how the United States has prepared and instigated a new doctrine of power over the past decade in the form of judicial dictatorship, which, through their agents of influence, has intensively backed their activities in the Latin American countries since 2015. Romero says: "Judges are now stairs through which North is pursuing its strategy of defeating left-wing governments by disqualifying leaders who have sought to defend the sovereignty of their people."³² In a number of key countries, thanks to the functioning of the judiciary, they have succeeded in changing regimes and installing friendly politicians. The Venezuelan case, however, showed that, in order to restore the objectives of the Monroe doctrine, they do not hesitate neither of using the more traditional methods, such as sanctions, coups and threats to provoke civil war. The Latin American people, after a peaceful period marked by prosperity, re-enter the age of turbulence.

immigration. And here the accusation was heard that the judiciary stood above the democratic will and acts like a larger mule in Iran. See <http://www.israelnationalnews.com/News/News.aspx/243274>

³² Romero, (2018).



Globally, such a geopolitical instrumentalization of the judiciary, similar to its abuses in the *ad hoc* international tribunal, further undermines the trust in the rule of law and the division of power as one of the most important features of contemporary liberal democracy. In the long run, the people get used to idea that

instead of being the protector of their rights and property, judges look to them like alienated centers of power that serve the interests of foreign powers.

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